IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 91 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

NAGORI YAKUB IBRAHIM

Appearance:

Mr. K.P. Raval,APP for appellant.

MR BN RAVAL for Respondent No. 1, 2, 3, 4, 5, 6,

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 27/11/2000

ORAL JUDGEMENT

Judgment and order dated Novemmber 16, 1989,recorded by learned Judicial Magistrate (F.C.), Vanthali, in Criminal Case No. 298of 1985, has been challenged by the State of Gujarat in this appeal. The learned Judicial Magistrate,by the impugned judgment and order acquitted the respondents of the offences punishable under Section 147,148, 149, 447,324, 325 of I.P.C.

2. Having gone through the judgment and order of the learned Magistrate and having heard the learned APP, Mr.K.P.Raval, in my view the learned Magistrate had not committed any error in acquitting the respondents of the charges framed against them. The witnesses examined by the prosecution were highly interested and their evidence did not establish that the respondents had caused injuries on the complainant. Even the medical evidence did not prove that the victim has sustained injuries on his body. The reasoning of the learned Magistrate in the impugned judgment, in my view, are quite cogent and convincing. The learned APP has not been able to dislodge the findings and conclusions arrived by the learned Magistrate. When the evidence of prosecution witnesses are found to be unreliable, there was no alternative but to acquit the respondents from the charges framed against them.

3. This is an acquittal appeal in which the Court would be slow to interfere with the order of acquittal. Infirmities in the prosecution case go to the root of the matter and strike a vital blow on the prosecution case. In such a case, it would not be safe to interfere with the order of acquittal more particularly when the evidence has not inspired confidence of learned Magistrate who had an advantage of observing demeanour of witness. On overall appreciation of evidence, I am satisfied that there is no infirmity in the reasons assigned by learned Magistrate for acquitting the respondents. Suffice it to say that learned Magistrate has given cogent and convincing reasons for acquitting the respondents and learned Additional Public Prosecutor has failed to dislodge the reasons given by learned Magistrate in order to convince me to take the view contrary to the one already taken by the learned Magistrate. Therefore, the acquittal appeal deserves to be dismissed.

4. Hence, this appeal is dismissed.

rmr. =========